

UNITED STATES DISTRICT COURT

FOR THE U.S. DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE DISTRICT OF N.H.
FBI

2008 MAY 22 P 12: 22

SHERRILL L. WHITE, pro se
Plaintiff

CIVIL RIGHTS COMPLAINT
(42 U.S.C. § 1983, § 1985)

-v-

CIVIL ACTION
NO. 08-cv-206

MARK L. SISTI, PROFESIONALLY
and in HIS PERSONAL CAPACITY
Defendant

CIVIL ACTION PURSUANT
TO 42 U.S.C. § 1983

NOW COMES BEFORE, this Honorable Court, the Plaintiff, Sherrill L. White, pro se, seeking, **In Forma Pauperis status**, (see attached forms). My current mailing address is; P.O. Box 258, Linwood, Ma. 01525

NOW FURTHER COMES BEFORE, this Honorable Court, the Plaintiff Sherrill L. White praying this Court allow me to proceed with this action against the above encaptioned Defendant. This complaint alleges that the Defendant violated my rights as guaranteed to me under the Constitution of the United States as follows. The Defendant violated, my; Sixth (6th) and Fourteenth (14th) Amendment Rights by denying me; **fair and effective representation**, as guaranteed under the Sixth (6th) Amendment and the right to **due process**, as guaranteed under the Fourteenth (14th) Amendment. I,

appreciate the problem I face in bringing this complaint, and request only that the Court grant me a hearing, in the fairness and interest of justice.

FACTS

HISTORY

It is important to bring to the knowledge of the Court that at the time of this incident I was a person with no criminal history at all. I was employed by U.S. Customs...loved my job and was proud to be doing it. I had been promoted twice while I was there. The Deputy Sheriff in this issue had threatened me by saying, (the following is as close as my memory serves me, but it is very close) he was going to run me, and my two (2) children, out of the town and the County. Being a single mother who by myself, raised two (2) boys and people who know me say I did a good job of it. The oldest son was at Keene State, (where he finished 4 years) and went on to U. Mass. Lowell. The younger son was a little more of a challenge but has turned out very well, and is working and living near me in Massachusetts. Due to this case and the poor representation, this whole family has lost everything they worked very hard to earn. This family requests nothing other than to be heard.

Procedural History

1. On or about the 12th of July, 2004 Mark Leonard called me at work, asking me, “what would you think if I came up to visit”? I told him, as closely as I can remember, the following, “you know you cannot come up here, all you will do is get me in trouble”.
 - a. I was working the 4 – 12 p.m. shift at the Beecher Falls, Port of Entry. Mark Leonard called me while I was on duty as a Custom Inspector. During this call,

was when he informed me that he was at my house. This phone call came in between 5:00 and 6:00 P.M.

- (i). My son was home at the time and I was afraid to tell Mark Leonard to leave in case he got violent and I did not want to endanger my son. (at this time I had an “order of protection” against Mark Leonard).
 - b. During the night, due to the heavy rains and the flooding caused by the rains, a beaver dam broke up river from my house. This happened prior to my shift ending. Due to the flooding 2 of the bridges were washed out and they couldn’t be crossed by automobile. The Sheriff’s Department and the Border Patrol, were, escorting people across the bridge down the road from my house on foot.
 - c. when I arrived to my house, Mark Leonard was still there. I told him to leave, then he threw in my face that the bridges were out and he couldn’t leave. At this point I told him he had to go I didn’t care how he got out. He kept bringing up the same story, I can’t leave the bridges are flooded.
2. On July 14th I learned that one lane of one bridge had been opened, I told Mark Leonard that he was to get his stuff and go. I went to bed around 6:00 p.m., because I had to be at work at midnight. I told him if he was there when I got up I was going to call the police. Mark Leonard told me okay I will be gone.
- a. I can see now that I should have stayed awake no matter how tired I was, to make sure that Mark Leonard actually left.
3. On the 14th of July, 2004 Mark Leonard was found at my house and arrested on a Felony complaint issued by the County of Essex Sheriff’s Department
- a. I had told the Mark Leonard to remove himself from the premises

and my property...I also had an “**Order of Protection**” which had been issued against him at my request.

4. On the 19th of July, 2004 I was charged with being an accessory after the fact.
5. On the 24th of July, 2004 I contacted Attorney Mark L. Sisti to defend me and at that time I retained his services.
6. On the 29th of July, 2004 Attorney Sisti filed a notice of Appearance.
7. On August 5th, 2004 Attorney Sisti, submitted a request for discovery, by letter to State’s Attorney Vincent Illuzzi.
8. On September 27th, 2004 Attorney Sisti, advised me by letter that I needed to sign a “Waiver of Appearance” and return it to him.
9. On October 5th, 2004 Attorney Sisti, filed an, “assented to”, motion to participate in “Phone Conference and Waiver of Defendant’s Appearance.”
 - a. I did not assent to this, I did not even know what it meant, I felt Attorney Sisti would give me diligent and fair representation. This is not to be taken as an assent on my part. Later it will be shown where when I started to question Attorney Sisti, he became very cynical and asked me “why would you want to live where you’re not wanted.”
10. On the 19th of October, 2004 the I was again contacted by Attorney Sisti, this time to inform me that I had a Court appearance on November 18th, 2004 at; 9:00 a.m.
11. On the 15th of December, 2004 the I was again contacted by Attorney Sisti, this time to send me “some” supplemental discovery he had received. This occurred again on the 19th and on the 21st of December, 2004 and then again on the 3rd of

January, 2005.

12. On March 18th, 2005 Attorney Sisti once again notified me by letter that I was required to appear in the "District Court of Vermont" on June 1st, 2005 at 2:00 p.m. for a motion for Exculpatory Material Hearing.
13. On April 7th, 2005 Attorney Sisti once again notified me by letter that I would be required to appear at the "District Court of Vermont" on June 2nd, 2005 at 9:00 a.m. for jury selection.
14. On May 19th, 2005 Attorney Sisti once again notified me that I would be required to appear at the "District Court of Vermont" on June 9th, 2005 for a trial.
15. On June 1st, 2005 I plead guilty at the request of my Attorney Mark Sisti, I informed him that I didn't want to do this, but, his comment was, "why would you want to live where you aren't wanted."

CAUSE OF ACTION

AND
My children, I have been raised to believe that the law was a thing to be trusted and respected. That if there was ever a problem, you went to an attorney and/or the police and followed the legal system to it's just end.

Having hired Attorney Mark L. Sisti I felt I would be vindicated, as I had done nothing wrong. In fact I had used the system and followed the suggestions of Deputy Sheriff Jeff Noyes in obtaining "Orders of Protection". I contacted the Sheriff's Department when Mark Leonard broke into my home.

Then only to find out later that this same Deputy Sheriff, had told three (3) other women in the same week, as he had told me, that there was no law in the State of Vermont to prevent someone from walking into my house. After talking with friends, I

called the Vermont State Police, who dispatched a Trooper Ballinger to my home, where I was informed, that there is a law against someone walking into my home, after he took a statement he informed me that I was the third woman he had spoke to and they all had been told the same lie.

After hiring Attorney Sisti, I tried to speak with him about the whole situation and he would hear none of it. Telling me, none of it would affect my situation. I asked him, “why would I call the Sheriff’s Department when every time I do they never come and do anything?”. (later statements made by the Deputy Sheriff will show this to be true).

Attorney Mark Sisti, kept telling me he was waiting for an attorney out of his office; Wendy Roberts, to pass her Vermont bar and she would be representing me in this matter. Upon Attorney Roberts passing the bar in Vermont, it turned out she couldn’t represent me because she was the attorney who had represented Mark Leonard, who I had prosecuted in New Hampshire for “Stalking me”, he was convicted, and placed on probation and was ordered to stay away from me.

Upon finding that his associate, Wendy Roberts, could not represent me, he immediately started going for a plea bargain, this ^{was} in direct conflict with my wishes. Attorney Sisti also was not happy with the fact that it was a two and a half hour (2 ½ hr.) drive each way from his office to represent his client..

I, having no previous experience with the law, was not quite able to comprehend why I would plead guilty to something I had not done. I was informed that the best I was going to get was a plea to a misdemeanor. I did know that I had done nothing wrong and Attorney Sisti would do nothing that I requested to help me.

Attorney Sisti, by not helping me get a well prepared defense, denied me of the essential benefits that the Sixth (6th) Amendment was designed to offer the Citizens of this Country. Attorney Sisti cannot justify having failed in his fiduciary duty to me..

I tried another attorney by the name of Doug Wiley and he also could not represent me as his office had also represented Mark Leonard who was arrested at my house.

The question that seems to be lurking in the shadows here is, “if Wendy Roberts an attorney in the Defendant’s office had represented the other party, arrested at my house, how would there not be a conflict of interest? ” Wendy Roberts had represented Mark Leonard when he was charged and convicted of stalking me in New Hampshire. It would seem as though I could not get “effective representation”.

DISCUSSION

Is it possible that there can be no fair representation? If this is to be, then it would appear the very foundation of the Constitution of this Country is on a downward slide. I am the Plaintiff in this case, I failed to be properly and fairly represented, and due to this was denied my right to **“effective assistance of counsel and my right to due process”**. If this is in fact a right under the Sixth (6th) Amendment and Fourteenth (14th) Amendment, does this mean that I have no recourse? Or is this just a sad tale of woe by a person who having worked hard all my life, took a job as a person protecting my Country’s borders only to find that, at any time, everything could be stripped away from me with no chance to plead my story because an attorney sworn to uphold the canons of his profession, felt it was too far away to travel, and wanted easy outcome of this case, even though it was in direct conflict with what his client wanted?

I am sure the Court will agree, to let something like this exist in the context of the law is a disgrace, to the attorneys who do work hard, are diligent in the defense of their clients and proffer forth the best work ethic they can achieve. The constitution everyday is put to the test. The only recourse people such as myself have is to come to the Court, usually in a situation that is far beyond their understanding of what they face to try and correct a wrong. These same people believe inherently that the Court will be there to show them that they do have rights and that those rights will be protected.

Attorney Mark Sisti, failed this me...by not doing anything to present a defense...I presented to Attorney Sisti, numerous documents and asked that he investigate the situation....as an example:

Prosecutor Illuzzi...writes a letter to a Trooper Ballinger concerning the very case that they claim Mark Leonard had a warrant issued against him for...saying that he felt (this is Prosecutor Illuzzi speaking) there was not sufficient grounds to prosecute Mark Leonard...then he writes a letter to the me...making claim to the fact that I had called him and asked him to drop all charges.....and that he couldn't do so because the charge was too serious. The question here has to be "what is the truth"....I cannot possibly be expected to know there was a warrant for Mark Leonard, after the letter to Trooper Ballinger Vincent Illuzzi saying that the State would not prosecute....I was never contacted again by the State or the Prosecutors Office, the Sheriff's Office or the State Police. Then it is alluded that Mark Leonard moved to Florida, which he never did. If the crime was so serious, why did they not have him picked up? I have all the paper-work to substantiate everything that I am saying. Then there is the instance where the same Deputy Sheriff (Jeff Noyes) who charged me says he saw the me in Colebrook, New

Hampshire (right across the line from the my residence) with Mark Leonard. This would cause one to wonder, if this were true, why didn't he detain Mark Leonard...or at the least call the Colebrook Police which were less than a half mile up the street and have them arrest Mark Leonard....and when one considers the fact that Mark Leonard was also (this was also known to the Deputy) on probation for stalking me and was under an "order of protection" to stay away from the me...why didn't Deputy Sheriff Jeff Noyes call the police if he felt, he was not in his jurisdiction. There is no doubt that he knew there was a warrant out for Mark Leonard, one of them was his. Could it not be possible that this person was stalking the me again? Deputy Sheriff Jeff Noyes could not have known whether we came in 1 vehicle or two, he never even inquired.

"Did Mark Sisti look into any of these things?" NO! He made no attempt to do anything to provide even a lack-luster defense.

INJURY

The Plaintiff in this case has suffered injury as follows:

1. Due to the ineffectiveness of Attorney Mark L. Sisti's representation I lost the following:
 - A. I lost my job.
 - B. I lost my home:
 - (1). This caused me and my family to lose everything we had worked for.
 - C. I went into a severe state of depression:
 - (1). This caused me to seek the services of a psychologist 3 times a week.
 - D. My credit went completely down the gutters, due to the fact that I was unemployed.

E. Me and my children's, reputations were slandered.

RELIEF SOUGHT

1. The return of the money I paid to Attorney Mark L. Sisti.
 - A. Two Thousand dollars (\$2,000.00) paid to Attorney Sisti and the removal from the credit bureau of a Thousand dollar (\$1,000.00) default.
2. Compensatory damages to be decided by a jury.
3. Punitive damages to be decided by a jury.
4. All paper work involved in my case.

SUCH FURTHER RELIEF, as this Court deems fair and just.

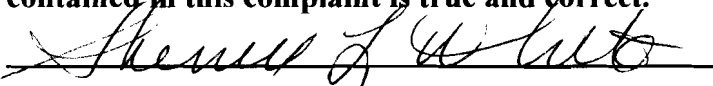
Plaintiff demands a trial by jury.

Respectfully Submitted,

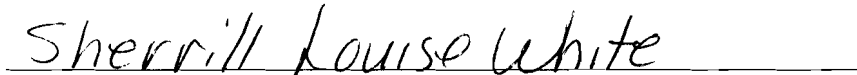
**Sherrill L. White, pro se
P.O. Box 258
Linwood, Ma. 01525**

DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares under penalty of perjury that I am the Plaintiff in the above action, that I read the above civil rights complaint and that the information contained in this complaint is true and correct.



Plaintiff's original signature



Plaintiff's full name

Executed at _____ **on** 5/15/2008
(Location) **(Date)**